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THE ANDHRA PRADESH GAZETTE PUBLISHED BY AUTHORITY

PART II EXTRAORDINARY

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NOTIFICATIONS BY HEADS OF DEPARTMENTS, Etc.

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CHIEF COMMISSIONER OF STATE TAXES ANDHRA PRADESH :: VIJAYAWADA.

INTEGRATED SENIORITY LIST IN THE CADRE OF SUPERINTENDENT GRADE-I (GAZETTED) AND PS TO CHIEF COMMISSIONER (ST)- ISSUANCE OF SHOW CAUSE NOTICE - OBJECTIONS CALLED FOR- OBJECTIONS RECEIVED.

Ref : 1. CCT's Ref No. C1/1085/1995 dt: 31.07.2010.
2. CCST Ref NO.C2/2018 dt: 14.11.2018.
3. G.O.Ms.No. 456, Finance (SMPC) Dept., dt. 02.12.2008.
4. G.O.Ms.No.607, Revenue (CT.I) Dept., dt.01.07.2010.
5. Notification No. 20453/SR1/A1/2014 dt: 01.06.2015.
6. G.O.Ms.No. 227, Finance (HR-II) Dept., dt.29.11.2016
7. G.O.Ms.No. 131, Revenue (CT.I) Dept., dt.14.03.2018
8. G.O.Ms.No. 233, Revenue (CT.I) Dept., dt.10.05.2018
9. CCT's File No. REV03-24022(32)/1/2018, DXZ SEC-CCT, dt.20.12.2018.
10. Objections filed by Sri T.V.Bhaskar, Superintendent Grade-I (Gazetted), dt. 02.01.2019.

CCT'S File No. REV03-24022(32)/1/2018-DXZ SEC-CCT :

1. In the reference 1st cited the integrated seniority list of Superintendents / Special category Stenographers in the O/o Commissioner of Commercial Taxes was finalized for the period from 1962-2000.
2. In the reference 2nd cited the integrated seniority list of Superintendents/ Special category Stenographers in the O/o Chief Commissioner of State Tax was finalized for the further period from 2001 to December 2016.
3. In the reference 3rd cited the Government have issued orders in G.O.Ms.NO.456, Finance (SMPC) Department, dated 02-12-2008 upgrading (12) existing posts of Superintendents to that of Superintendents Grade-I (Gazetted) and upgrading one post of Special Category Stenographer to that of Private Secretary to Commissioner (CT) in the O/o the Commissioner (CT), which posts/cadres are made equivalent to the post of Deputy Commercial Tax Officers in the Commercial Taxes Department, so as to provide channel of promotion to the post of CTO which is a state cadre post.
4. Consequently in the reference 4th cited, the Government have issued orders in G.O.Ms.NO.607, Revenue (CT.I) Department, dated 01-07-2010 formulating the Special Rules called the Andhra Pradesh Commissionerate of Commercial Taxes Service Rules, 2010 for governing the posts of Superintendent, Grade-I (Gazetted) and Private Secretary to Commissioner (CT).
5. As per the Special Rules of Andhra Pradesh Commissionerate of Commercial Taxes Service Rules, 2010 the feeder category for the posts of Superintendent Grade-I Gazetted and Private Secretary to Commissioner (CT) are Superintendent and the Special category Stenographer respectively.
6. In the reference 5th cited, as per the A.P. Reorganization Act 2014 and as per the orders issued by the Secretary to Government (SR), GAD & Member Secretary, Advisory Committee as on 01-06-2014, the cadre strength of Superintendent Grade-I Gazetted and Private Secretary to Commissioner (CT) was distributed between the two states i.e. Andhra Pradesh and Telangana as detailed below:

Superintendent Grade-I Gazetted

Andhra Pradesh			Telangana		
Sanctioned posts	Filled	Vacant	Sanctioned posts	Filled	Vacant
7	5	2	5	3	2

Private Secretary to Commissioner (CT)

7. Only one post of Private Secretary to Commissioner (CT) was in existing in the combined State. Therefore the same was allotted to the State of Andhra Pradesh.
8. In view of the above the total cadre strength of Superintendent Grade-I (Gazetted) and Private Secretary to Commissioner (CT) in Andhra Pradesh is as follows:
 1. Superintendent, Grade-I (Gazetted)- 7 Posts
 2. Private Secretary to Commissioner (CT)- 1 Post

9. Further again vide reference 6th cited, the Government have issued orders in G.O.Ms.No.227, Finance (SMPC), Department, dated 28-11-2016 sanctioned new (6) posts of Superintendent, Grade-I (Gazetted) in the O/o Commissioner of Commercial Taxes suppressing the 6 posts of DCTOs that existing in the O/o Commissioner (CT).
10. In the reference 7th cited, the Government have issued orders in G.O.Ms.No.131, Revenue (CT-I) Department, dated 14.03.2018 issued orders that the minimum service for appointment by transfer from Superintendent/ Special Category Steno to Superintendent Grade-I (Gazetted) / Private Secretary to Commissioner of Commercial Taxes is 2 years.
11. Further due to implementation of APGST ACT, 2017, it has necessitated to change the nomenclature of certain officers and accordingly the service rules governing these officers were amended so as to reflect the changed nomenclature. On account of these amendments the post of Commissioner of Commercial Taxes was changed to Chief Commissioner of State Tax and the post of Secretary to the Commissioner of Commercial taxes changed to Secretary to the Chief Commissioner of State Tax.

In view of the above, the Government vide orders issued in G.O.Ms.No. 233, REV (CT-I) Department, dt. 10.05.2018 amended the special Rules 2010 that were issued vide G.O.Ms.No. 607 REV (CT-I) Department, dt. 01.07.2010., for the post of Superintendent Grade -I (Gazetted) / Private Secretary to the Commissioner of Commercial Taxes as follows:

- 1) For rule-1, under the heading short title, the following shall be substituted:

“These rules shall be called “The Special Rules for the posts of Superintendent Grade-I (Gazetted) and Private Secretary to Chief Commissioner of State Tax in the Andhra Pradesh Commissionerate of Chief Commissioner of State Tax, Vijayawada”.
- 2) In rule-2, under Category 1(A), for the words “Private Secretary to Commissioner of Commercial Taxes”, the words “Private Secretary to Chief Commissioner of State Tax” shall be substituted.
- 3) In Rule-3, in the TABLE there under:
 - i) For the expression “Commissioner of Commercial Taxes” wherever it occurs “Chief Commissioner of State Tax, Andhra Pradesh” shall be substituted.
 - ii) In column (3) and (4), the expression “Hyderabad” shall be omitted.
- 4) In Rule-4, in the TABLE there under,
 - i) For the expression “the Commissioner of Commercial Taxes” wherever it occurs “Chief Commissioner of State Tax, Andhra Pradesh” shall be substituted.
 - ii) In column (3), the expression “Hyderabad” shall be omitted.
- 5) In rule 6, under the heading Transfers and Postings, the words and expressions “Secretary to the Commissioner of Commercial Taxes, Andhra Pradesh, Hyderabad”, the words and expressions “Secretary to Chief Commissioner of State Tax, Andhra Pradesh, Vijayawada” shall be substituted.

6) In Rule-7, under the heading Unit of appointment, for the words and expressions "the Commissioner of Commercial Taxes, Andhra Pradesh, Hyderabad", the words and expressions "the Chief Commissioner of State Tax, Andhra Pradesh, Vijayawada" shall be substituted.

12. Basing on the above Government Orders and as well as Seniority lists, the departmental promotion committee approved the adhoc panels of Superintendents / Special category of Stenographers fit for promotion to the post of Superintendent, Grade-I (Gazetted)/ Private Secretary to Chief Commissioner (ST) for the panel years 2009-10,2012-13, 2016-17 & 2018-19 in different spells.

13. As per the adhoc panels of Superintendents, Grade-I (Gazetted)/ Private Secretary to Chief Commissioner of State Taxes, the proposed integrated seniority list of Superintendents, Grade-I (Gazetted)/ Private Secretary to Chief Commissioner of State Taxes was prepared and Show Cause Notice was issued vide reference 9th cited with a request to file their objections if any, within 15 days from the date of receipt of the SCN.

14. In response only one individual namely Sri T.V.Bhaskar, Superintendent, Grade-I (Gazetted) filed his objections as follows:

1. That he was promoted as Superintendent in January 2010 in the vacancy arose on 31.01.2009, where as Smt D.Kaika was promoted as Superintendent on 26.02.2013. He was qualified to the post of Superintendent Grade-I (Gazetted) by February 2013. The Government issued orders vide G.O.Ms.No. 456 Finance (SMPC) Dept., dt: 02.12.2008 upgrading (12) existing posts of Superintendents to that of Superintendents Gr-I (Gazetted) and upgrade 1 post of Special Category Stenographer to that of Private Secretary to the Commissioner (CT).
2. That the reservations provided under the Government instructions are to be operated in accordance with the roster to be maintained in the Dept. The roster is implemented in the form of running account from year to year. Once the posts are filled and adequacy is satisfied there after the roster does not survive. The operation of roster and the running account must come to an end after the initial posts are filed. Reliance is placed on the orders and judgment of the Hon'ble Supreme Court of India in the case of R.K. Sabharwal and Ors Vs. State of Punjab and Ors on 10 February, 1995 reported in 1995 AIR 1371, 1995 SCC (2) 745.
3. He further submitted that in view of the above, a roster point could not be given to the vacancy arose due to the retirement of P.J. Prakasam and it shall be filed by O.C. Candidates. The roster point 16 SC should not be given to that vacancy. That vacancy shall be filled with him. But erroneously his name is shown in the proposed Seniority list under the name of Smt. D. Kaika. But, he is the senior to Smt D.Kaika and his name is to be placed on and above the name of Smt D.Kaika.
4. That while determining the interse seniority of the Government servants belonging to SCs/ STs and those belonging to unreserved category promoted at the same time by common order, shall be on the basis of interse seniority in the lower cadre. Reliance is placed on the orders and judgment of the Hon'ble Supreme Court of India in the case of B.K.Pavitra and Ors Vs. Union of India and Ors on 09.02.2017 in Civil Appeal

No.2368 of 2011. Since he is the senior to Smt D.Kaika in the category of Superintendent, he is the senior to Smt. D.Kaika in the category of Superintendent Gr-I (Gazetted) also his name is to be placed on and above the name of Smt. D.Kaika in the proposed seniority list.

5. That in the case of Ajith Singh Vs. State of Punjab (II) AIR 1999 SC 3471, the Hon'ble Supreme Court of India observed that "The Roster Point promotees (reserved category) cannot count their seniority in the promoted category from the date of their continuous officiation in the promoted post vise-a-vise the general candidate who were senior to them in the lower category and who were later promoted. On the other hand the senior general candidate at the lower level, if he reaches the promotional level later but before the further promotion of the reserved candidate. He will have to be treated as Senior at the promotion of the reserved candidate even if the reserved candidate was earlier promoted to that level".
6. That in the instant case he and Smt. D.Kaika were in promoted at same time through common order. Therefore, the orders and judgments of the Hon'ble Supreme Court of India are binding and they are declared law.
7. That Para 13 in G.O.Ms.No.2 Social Welfare Dept., dt: 09.01.2004, prescribed a procedure regarding carried forward vacancies if no qualified candidates are available "In case qualified SC/ ST candidate are not available for a particular panel year, the vacancy shall be carried forward to a subsequent year. In the second year, SC/ST candidates are not available, the vacancies and points meant for SC/ST candidate may be filled up by the candidates from the feeder category based on the merit and seniority. The number of such vacancies meant for SC and ST should be carried forward and filled up first in the subsequent year with SC and ST candidates. As such the vacancy (8 ST Women) arose on 02.12.2008 shall be filled with O.C candidate after completion of two panel years. As such his name shall be placed on and the above name of Smt. D.Kaika with the above objections he has requested to place his name on and the above name of Smt. D.Kaika in the proposed integrated seniority of Superintendents / Private Secretary to the Commissioner (CT).

Reply to Objection:

1. As per the final seniority list of Superintendents / Special Category Stenos Sri T.Vijaya Bhaskar was figured at SI.No.135 and his date of joining as Superintendent on 23.01.2010. Smt D.Kaika was figured at SI.No.144 and her date of joining as Superintendent on 26.02.2013. They are qualified to the post of Superintendent Grade-I (Gazetted) by 01.09.2013 and 01.09.2016 respectively.

The Government vide G.O.Ms.NO.456, Finance (SMPC) Department, dated 02-12-2008 upgrading (12) existing posts of Superintendents to that of Superintendents Grade-I (Gazetted) and upgrade one post of Special Category Stenographer to that of Private Secretary to Commissioner (CT) in the O/o the Commissioner (CT), which posts/cadres are made equivalent to the post of Deputy Commercial Tax Officers in the Commercial Taxes Department.

2. As per G.O.Ms.No.2 SW (ROR-I) Dept., dt: 09.01.2004, the reservation in the promotion to Scheduled Caste and Scheduled Tribe candidates shall be implemented w.e.f. the date of issue of G.O.Ms.No. 5 SW (ROR-I) Department dt: 14.02.2003. The reservation has to be implemented, if the SC/STs are not adequately represented to the extent of 15% and 6% on the cadre strength respectively. If, adequate representation already exists as on 1st September of the panel year the rule of reservation in promotions in favour of SC/STs need not be followed.

As per Rule 22 (2) (a) (i) C of AP State and Subordinate Service Rules, 1996 "Filling up the roster points shall continue till the required percentage of Scheduled Caste and Scheduled Tribes candidates is obtained. Once the required percentage is obtained by taking into account both the Scheduled Caste and Scheduled Tribe candidates who are found in the list of candidates fit for promotion on account of their seniority in the feeder category and those who are moved up to fill up the required roster point, further adjustment of Scheduled Caste and Scheduled Tribe employees against roster point has to be stopped".

3. As per Rule 22 (2) (a) (i) of AP State and Subordinate Service Rules, 1996, Government have issued clarification in respect of the Seniority of Scheduled caste/ Scheduled Tribes stating that

- A. In the case of appointments / promotions to the posts referred to clause 2 (a) (i) the panels of eligible candidates for promotion, the names of eligible Scheduled Caste and Scheduled Tribe employees from the feeder category have to be shown against the roster points earmarked for them irrespective of their seniority position in the feeder category.
- B. If a Scheduled caste and Scheduled Tribe employee gets a higher place in the eligible candidates list by virtue of his seniority in the feeder category he need not be adjusted in a lower position which is earmarked for a Scheduled Caste and Scheduled Tribe employees as per roster system. Such roster point has to be filled up by moving up an Scheduled Caste and Scheduled Tribe employees who is below in the seniority list in the feeder category.
- C. Filling up the roster points shall continue till the required percentage of Scheduled Caste and Scheduled Tribes candidates is obtained. Once the required percentage is obtained by taking into account both the Scheduled Caste and Scheduled Tribe candidates who are found in the list of candidates fit for promotion on account of their seniority in the feeder category and those who are moved up to fill up the required roster point, further adjustment of Scheduled Caste and Scheduled Tribe employees against roster point has to be stopped.
- D. Unutilised roster points after the required Scheduled Caste and Scheduled Tribes percentage is met, shall lapse.
- E. If required number of Scheduled Caste and Scheduled Tribe employees are not available in the feeder category to obtain the required representation in the promotion

category. The vacancies earmarked for Scheduled Caste and Scheduled Tribe employees according to the roster points will be carried forward.

4. Para 13 of G.O.Ms.No. 2, dt: 09.01.2004, issued by the Social Welfare (SW. ROR-I) Department, Government of Andhra Pradesh, extracted here under:

“in case qualified Scheduled Caste/ Scheduled Tribe candidates are not available for a particular panel year, the vacancy shall be carried forward to the subsequent year. In the second year, if Scheduled Caste/ Scheduled Tribe candidates are not available, the vacancies or points meant for Scheduled caste/ Scheduled Tribe candidates may be filled up by candidates from the feeder category based on merit and seniority. The number of such vacancies meant for Scheduled caste and Scheduled Tribe should be carried forward and filled up first in the immediate subsequent year with Scheduled caste/ Scheduled Tribe candidates.”

In this regard, as per the above Para, it is true that after two consecutive panel years, the carried forward vacancy meant for SC / STs, can be filled up with eligible candidates from the feeder category based on the merit cum seniority.

In this connection, to fill up the said vacancy in Open Category by the candidates from the feeder category on merit cum seniority basis, the Seniority list in the cadre of Superintendents at that point of time was not finalized due to seniority dispute pending before the court of law. Since the matter is pending before the court, the seniority could not be finalized. Therefore now conversion of ST carried forward vacancy into Open category does not arise.

5. Further the objections raised with reference to certain judgment of Supreme Court of India will not help him to canvass his case as long as rules and Government orders are in vogue / force and therefore his placement is in conformity with the rules and Government orders.

15. In view of the above, the objection of Sri T.V.Bhaskar, Superintendent Grade-I (Gazetted) for his objection to place his name on the above name of Smt. D.Kaika is not feasible and rejected and final orders are hereby passed on the integrated seniority list of Superintendents, Grade-I (Gazetted)/ Private Secretary to Chief Commissioner of State Taxes for the panel year 2009-10 to 2018-19 vide list enclosed as annexure.

16. These final orders are issued subject to outcome of S.L.Ps /W.Ps/O.As/ appeals pending if any, before the Supreme Court of India, High Court of A.P/A.P.A.T/ Government.

ANNEXURE

STATEMENT SHOWING THE FINALISED INTEGRATED SENIORITY LIST OF SUPERINTENDENT GRADE I(GAZETTED) AND PS TO COMMISSIONER(CT) UPTO BIFERICATION OF THE STATE							
SI NO.	Date of arising of vacancy	Com munal Roster	Panel Year	Name of the Superintendent Grade-I(Gazetted)/ PS to CCT / CC (ST)	Date of Birth	Date of Joining as Supdt Grade-I(Gazetted)/ PS to CCT/ CC (ST)	Remarks
1	02.12.2008	1	2009-10	V.K Shankar Prasad	25.01.1957	07.08.2010	Allotted to A.P and Retired on 31.01.2017
2	02.12.2008	2- SC(W)	2009-10	G. Prameela (SC)	03.06.1960	07.08.2010	Allotted to Telangana
3	02.12.2008	3	2009-10	M. Shobha	15.06.1957	07.08.2010	Retired on 30.06.2015
4	02.12.2008	4	2009-10	J. Jhansi Rani	15.05.1955	07.08.2010	Retired on 31.05.2013
5	02.12.2008	5	2009-10	P.J Prakasham	16.08.1955	07.08.2010	Retired on 31.08.2013
6	02.12.2008	6	2009-10	K. Naga Ramani	15.06.1954	07.08.2010	Retired on 30.06.2012
7	02.12.2008	7-SC	2009-10	B.S. Samyuktha (SC)	15.06.1965	07.08.2010	Allotted to Telangana
	02.12.2008	8-ST(W)	2009-10	Carried Forward			Carried forward due to no qualified person
8	02.12.2008	9	2009-10	G. Ashok Kumar	13.03.1956	07.08.2010	Retired
9	02.12.2008	10	2009-10	B. Bala Krishna	09.06.1957	07.08.2010	Allotted to Telangana
10	02.12.2008	11	2009-10	R. Bhanumathi	10.06.1959	07.08.2010	Allotted to A.P and promoted as CTO
11	02.12.2008	12	2009-10	Ch. Ramesh Kumar	05.02.1954	07.08.2010	Retired
12	02.12.2008	NA	2009-10	V. Venkateswarao	06.06.1966	07.08.2010	Allotted to A.P and promoted as CTO
13	28.02.2012	13	2012-13	P. Suresh	10.08.1957	24.11.2012	Allotted to A.P and Retired as CTO on 31.08.2017
14	30.06.2012	14	2012-13	B. Hrushi Kesava	01.02.1957	24.11.2012	Allotted to A.P and Retired on 31.01.2017
15	31.05.2013	15	2012-13	R. Sitaramachandra Murthy	04.07.1959	31.05.2013	Allotted to A.P and now working as Superintendent Grade-I (Gazetted)
	31.08.2013	16 SC	2013-14	Carried Forward			Carried forward due to no qualified person
STATEMENT SHOWING THE FINALISED INTEGRATED SENIORITY LIST OF SUPERINTENDENT GRADE I(GAZETTED) AND PS TO CHIEF COMMISSIONER(ST) AFTER BIFERICATION OF THE STATE							
16		8 ST (W)	2016-17	D. Kaika	23.05.1979	01.02.2017	Working as Superintendent Grade-I (Gazetted)
17	29.11.2016	17	2016-17	T.V Bhaskar	03.08.1965	01.02.2017	Working as Superintendent Grade-I (Gazetted)
18	29.11.2016	18	2016-17	C.V.S Ravi Kumar	15.06.1960	01.02.2017	Working as Superintendent Grade-I (Gazetted)
19	20.06.2017	NA	2016-17	J. Srinivas	28.12.1959	19.07.2017	Working as P.S to CCST
20		16 SC	2018-19	D.Sulochana	23.04.1976	16.11.2018	Working as Superintendent Grade-I (Gazetted)

21	29.11.2016	19	2018-19	S.V. Raghavacharyulu	01.07.1960	16.11.2018	Working as Superintendent Grade-I (Gazetted)
22	29.11.2016	20	2018-19	A.D.P.Raj Kumar	10.04.1967	16.11.2018	Working as Superintendent Grade-I (Gazetted)

Dated : 17-04-2019

J. SYAMALA RAO,
Chief Commissioner (ST).

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